IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

MFA.No. 1022 of 2000(A)

EIC.88/1993 OF E.I.COURT, KOZHIKODE
.....

APPELLANT/ APPLICANT:

M/S. KALPAKA OIL INDUSTRIES,
REPRESENTED BY ITS LICENSEE,
SMT. M.A. PANCHALI,
W/O. M.A. UNNEERIKUTTY,
`PANCHAJANYAM', JILLA BUNGLOW ROAD,
KOZHIKODE.

BY ADV. SRI.A.SUDHI VASUDEVAN,
ADV. SMT.BINDU MOHANDAS.

RESPONDENT/ RESPONDENT:

REGIONAL DIRECTOR,
EMPLOYEES STATE INSURANCE CORPORATION,
NORTH SWARAJ ROUND, TRICHUR.

BY ADV. SRI.T.V.AJAYAKUMAR, SC.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 12/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO. 5765/2000 IN M.F.A. NO. 1022/2000-A

DISMISSED

SD/- J.B.KOSHY, JUDGE.

12/11/2007. **SD/- K.HEMA, JUDGE.**

//TRUE COPY//

prv.

J.B.KOSHY & K.HEMA, JJ.

M.F.A.No.1022 OF 2000

Dated 12th November, 2007

JUDGMENT

Koshy,J.

When demand was issued for coverage of his establishment and for payment of contribution, appellant approached the Employees' Insurance Court contending that the Employees' State Insurance Corporation has included the headload workers also as employees of the establishment in counting the number of persons employed in the Oil Mill. If they are excluded, total number of employees employed are below 10. According to the appellant, the headload workers though working in the premises of the establishment, were working under a contractor and it is not a regular work and, therefore, they are not liable to be covered under the Act. Headload workers are working in connection with the work of the appellant establishment. Definition of `employee' under Section 2(9) of the Employees' State Insurance Act is very wide so as to include all persons working in connection with the establishment whether the work is preliminary or incidental to the work of the establishment. Headload workers were paid wages from the establishment itself even though there was a Moopan, an intermediate man. Workers employed in the premises of the establishment are also liable to be covered. Considering the nature of industry, headload

workers are to be regularly employed. As per the wage register, only four employees including Manager, Mechanist, Assistant Manager and Helper are working. But, admittedly, more employees are working in the establishment. The E.S.I. Inspector on his inspection carried on 9.3.92 found that including the headload workers 15 employees were working in the premises of the establishment. After considering the evidence, E.I. Court found that the above is correct. These are finding of facts on evidence and we see no ground to interfere with the same. The E.I. Court has given opportunity to the employer appellant to prove the actual wages paid to the employees so that contribution need not be paid on adhoc basis as determined by the Corporation. In these circumstances, there is no substantial question of law to be considered in this case. We agree with the findings of the E.I. Court.

The appeal is dismissed.

J.B.KOSHY
JUDGE

K.HEMA
JUDGE

tks